

Appl. No. 10/759,836
Amdt. Dated 09/08/2004
Reply to Office Action of 06/10/2004

Remarks/Arguments

Applicant would like to thank the examiner for the thorough review of the present application. The specification has been amended to reference element "32", which is labeled in FIGS. 3 and 5. Applicant has reviewed the specification in detail and believes no minor errors exist therein. The term "TV" has been replaced with "television" in the pending claims. Claims 1-5 and claim 12 has been canceled. Independent claims 6 and 10 have been amended such that they are no longer coextensive in scope with claims 2/1 and claims 8/6, respectively.

The examiner has rejected independent claims 1, 6 and 10 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,633,322 to Fourny in view of German reference no. 2648549. Applicant respectfully submits the examiner has mischaracterized Fourny and the German reference.

A reference should be considered as a whole, and portions arguing against or teaching away from the claimed invention must be considered. *See Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 230 USPQ 416 (Fed. Cir. 1986).

Neither Fourny nor any prior art of record discloses "an elongated second shaft disposed within said housing and below said first shaft and adjacent said slot, said second shaft guiding said cover member forwardly and downwardly through said slot", as claimed in applicant's amended independent claims 6 and 10. The use of applicant's claimed second shaft is to direct the cover member downwardly along the front face of the television. Fourny teaches away from the claimed invention because it employs a combination of horizontal bars 9, vertical bars 11 and a support bar 19 that cooperate with blocks 16, 23 for guiding the position of the filter 1 with respect to the television screen 4 (see column 4, lines 10-65; FIGS. 2 and 5-8).

Fourny also discloses the use of L-shaped pieces 35, 36 for providing a groove 41 along which the roller 40 may be positioned so that the filter can be guided downwardly in front of the television screen (column 4, line 66 – column 5, line 16; FIG. 9).

Accordingly, Fourny teaches away from the claimed invention by disclosing a combination of structural elements, which are disposed exterior of its housing, for

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guiding its filter down the television. Fourny's combined teaching of horizontal, vertical and L-shaped members are in sharp contrast to applicant's claimed invention, wherein the second shaft is disposed with the housing for guiding the cover member downwardly. Fourny teaches away from applicant's claimed invention because there is simply no need to include a second shaft for guiding the filter, as suggested by the examiner.

The German reference teaches a shaft to guide a filter along a horizontal plane and across a top surface of the television, because the German housing is positioned at a rear side of the television. In contrast, the present invention claims the "housing positionable on top of a television adjacent a front face thereof", as recited in amended independent claims 6 and 10. Similar to applicant's housing, Fourny's housing is positioned near a front face of the television and therefore does not need the second shaft to guide the filter horizontally across a top surface of the television. Thus, there is no teaching, suggestion or motivation to combine the German shaft with Fourny.


In view of these considerations, it is respectfully submitted that the rejection of the original claims should be considered as no longer tenable with respect to the currently amended independent **claims 6 and 10**. All pending dependent claims necessarily include the recitations of their independent claims and therefore are also in condition for allowance.

Should the examiner consider necessary or desirable to make formal changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by examiner's Amendment, if the examiner feels this would facilitate passage of the case to issuance. Alternatively, should the examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned attorney.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
Law Office of Ashkan Najafi, P.A.

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